



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: SWAMI
Serial No.: 10/603,593
Filed: June 25, 2003
Examiner: Jones, P.
Group Art Unit: 2616
Docket No.: NOKM.046PA
Allowed: October 4, 2006
Confirmation No.: 4865
Title: SYSTEM AND METHOD FOR OPTIMIZING LINK THROUGHPUT IN
RESPONSE TO NON-CONGESTION-RELATED PACKET LOSS

CERTIFICATE UNDER 37 CFR 1.8: The undersigned hereby certifies that this communication is being deposited in the United States Postal Service, as first class mail, in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on 01/02/07.

By: 
Rennae Johnson

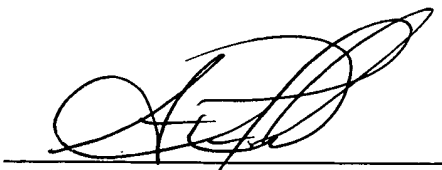
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P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

We are transmitting herewith the attached:

- ☒ Transmittal Sheet
- ☒ Please charge Deposit Account No. 50-3581 (NOKM.046PA) the amount of \$1,703.00 (\$1400.00 for the Issue Fee, \$300.00 for the Publication Fee and \$3.00 for Patent copy).
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- ☒ Comments on Statement of Reasons for Allowance.
- ☒ 1 Return Postcard.
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Reg. No.: 37,830

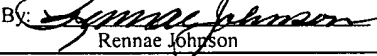


PATENT

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CERTIFICATE UNDER 37 CFR 1.8: The undersigned hereby certifies that this correspondence and the papers, as described hereinabove, are being deposited in the United States Postal Service, as first class mail, in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on 01/02/07.

By: 
Rennae Johnson

COMMENTS ON STATEMENT OF REASONS FOR ALLOWANCE

MAIL STOP ISSUE FEE
c/o Technology Center 3600
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

This Communication addresses the Examiner's Statement of Reasons for Allowance submitted on October 4, 2006 (Official Paper No. 20060927). For particular claims (*i.e.* Claims 1, 20, 30), the Examiner has identified particular features of the claimed invention that are not taught or suggested by the cited prior art. The Applicant notes that the Examiner did not address whether the cited prior art teaches, or fails to teach, other features of the allowed claims. Rather, the Examiner merely identified the aforementioned particular features of selected claims that the cited prior art clearly fails to teach or suggest. The Examiner's language is silent with respect to other features and recitations of the allowed claims. Although the Examiner did not suggest that the cited prior art teaches all other limitations of the allowed claims, the Applicant makes clear

for the record that any such interpretation of the Reasons for Allowance would be incorrect and impermissible. The allowed claims include other recitations, not identified by the Examiner as being taught by the cited prior art, which are neither described nor suggested by the prior art.

Accordingly, to the extent that the Reasons for Allowance may imply that the claimed invention was allowed due to the failure of the cited prior art to disclose only those claim recitations specifically referenced in the Reasons for Allowance, the Applicant disputes any such implication. For example, if the particular distinguishing features identified in the Reasons for Allowance were indeed found to be associated with a particular prior art reference of record, the claimed invention would not be rendered anticipated under 35 U.S.C. §102 as the claimed invention includes numerous limitations not addressed in the Reasons for Allowance. With respect to obviousness under 35 U.S.C. §103(a), the rigors of establishing *prima facie* obviousness include a showing that the prior art teaches all of the claim limitations, as well as a legally appropriate showing of motivation to modify or combine references to arrive at the claimed invention and a reasonable expectation of success. If there is disagreement on the part of the Examiner, the Applicant invites the Examiner to address the Applicant's remarks presented herein.

In view of the Examiner's allowance of all pending claims, the comments provided herein are not provided in an effort to distinguish the pending claims from the prior art. Rather, these comments are provided to make clear that the Applicant does not acquiesce that other features and recitations of the allowed claims are necessarily described or suggested by the cited prior art, if such an inference could reasonably be drawn. It is respectfully submitted that the Applicant has not intended to narrow, nor has the Applicant narrowed, the breadth of the allowed claims through the explanatory comments provided herein.

Unless Applicant hears otherwise, Applicant's comments herein are, as intended,
clarifying in a manner consistent with the law.

Respectfully submitted,
HOLLINGSWORTH & FUNK, LLC
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Date: December 29, 2006

By: 

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